

1 SAO
2 Corey M. Eschweiler, Esq.
3 Nevada Bar No. 6635
4 Adam D. Smith, Esq.
5 Nevada Bar No. 9690
6 **GLEN J. LERNER & ASSOCIATES**
7 4795 South Durango Drive
8 Las Vegas, Nevada 89147
Phone: (702) 877-1500
Fax: (702) 877-0110
E-mail: ceschweiler@glenlerner.com
asmith@glenlerner.com
Attorneys for Plaintiff

9 V. Andrew Cass
10 Nevada Bar No. 005246
11 Kristin E. Meredith
12 Nevada Bar No. 11655
13 **LEWIS BRISBOIS BISGAARD & SMITH LLP**
14 6385 S. Rainbow Boulevard, Suite 600
15 Las Vegas, Nevada 89118
PH: (702) 893-3383
FAX: (702) 893-3789
E-mail: cass@lbbslaw.com
meredith@lbbslaw.com
Attorneys for Defendant

17 UNITED STATES DISTRICT COURT
18 DISTRICT OF NEVADA

19 GEMMA CASTILLO, individually,)
20 Plaintiff,) CASE NO. 2:11-cv-00582-RLH-LRL
vs.)
21 STATE FARM MUTUAL AUTOMOBILE) STIPULATION AND ORDER TO
22 INSURANCE COMPANY, DOES I - X, and ROE) REMAND CASE TO STATE COURT
23 CORPORATIONS I - X, inclusive,)
Defendants.)

24 Plaintiff Gemma Castillo (“Castillo”), by and through her counsel of record Glen J. Lerner &
Associates, and State Farm Mutual Automobile Insurance Company (“State Farm”), by and through
its counsel of record, Lewis Brisbois Bisgaard & Smith LLP, hereby stipulate as follows:
25
26
27
28 ///

1 **WHEREAS:**

2 1. Castillo alleges that on or about October 1, 2009, she was involved in an automobile
3 accident with a hit-and-run driver in Clark County, Nevada (the "Accident"). Castillo claims to
4 have sustained personal and other injuries as a result of the Accident.

5 2. On October 8, 2009, Plaintiff Gemma Castillo submitted a Traffic Accident Report to
6 the Las Vegas Police Department wherein she indicated that she resides in Las Vegas, Nevada and
7 holds a Nevada drivers license.

8 3. Defendant State Farm is, and was at the time this action was commenced, an
9 insurance company organized and existing under the laws of Illinois, with its principal place of
10 business in Bloomington, Illinois.

11 4. On April 28, 2011, Ms. Castillo filed an action against State Farm, Clark County
12 District Court Case No. A-11-639148-C, for breach of contract, contractual breach of the implied
13 covenant of good faith and fair dealing, tortious breach of the implied covenant of good faith and
14 fair dealing, bad faith, and unfair trade practices.

15 5. On May 25, 2011, State Farm removed this matter to matter to federal court on the
16 basis of diversity jurisdiction and amounts in controversy in excess of \$75,000.

17 6. On June 3, 2011, Plaintiff's counsel, Adam Smith, contacted defense counsel and
18 advised that Ms. Castillo had become an Illinois resident in November 2010. Mr. Smith provided a
19 declaration singed by Ms. Castillo on June 9, 2011 to this effect, a copy of which is attached hereto
20 as **Exhibit 1**.

21 **IT IS HEREBY STIPULATED AS FOLLOWS:**

22 1. This Agreement is entered into pursuant to Plaintiff's affirmation that she was an
23 Illinois resident at the time this action was filed and continues to be an Illinois resident. Should
24

contrary evidence later be discovered, Defendant fully reserves all rights to remove this matter back to federal court.

2. In light of Plaintiff's affirmation, diversity jurisdiction is no longer established, and this matter should be remanded from the United States District Court, District of Nevada, back to Clark County District Court for further proceedings.

GLEN J. LERNER & ASSOCIATES

LEWIS BRISBOIS BISGAARD & SMITH, LLP

By

Corey M. Eschweiler, Esq.
Nevada Bar No. 6635
Adam D. Smith, Esq.
Nevada Bar No. 9690
4795 South Durango Drive
Las Vegas, Nevada 89147
Attorneys for Plaintiff

By

V. Andrew Cass, Esq.
Nevada Bar No. 5246
Kristen E. Meredith, Esq.
Nevada Bar No. 11655
6385 S. Rainbow Blvd., Suite 600
Las Vegas, Nevada 89118
Attorneys for Defendant

ORDER

This action is hereby remanded back to Clark County District Court for further proceedings.

IT IS SO ORDERED this 28th day of June, 2011.

Submitted by:

~~UNITED STATES DISTRICT~~

JUDGE

GLEN J. LERNER & ASSOCIATES

By:

Corey M. Eschweiler, Esq.
Nevada Bar No. 6635
Adam D. Smith, Esq.
Nevada Bar No. 9690
4795 South Durango Drive
Las Vegas, Nevada 89147
Attorneys for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

2011-Jun-09 12:00 PM Happ Engineering Department 847593035E

1/1

DECLARATION OF GEMMA CASTILLO

2 STATE OF ILLINOIS }
3 COUNTY OF COOK }ss:

Gemma Castillo swears or affirms as to the following facts and declares them to be true:

5 1. I am the Plaintiff in case number 2:11-cv-00582-RLH-LRL currently pending in
6 the United States District Court, District of Nevada. I have personal knowledge of the facts
7 stated herein and I am competent to testify thereto.

2. I moved to 17 Veneto Court, Streamwood, Illinois, in November, 2010, and have
permanently lived at that address ever since.

10 3. I have no plans to move from Streamwood, Illinois, at this time, and I am
11 currently employed in Illinois.

12 I declare under penalty of perjury under the laws of the State of Nevada and the United
13 States of America that the foregoing is true and correct.

14 Executed on May 9, 2011.

Gemma Castillo